IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 361 (SS) OF 2005

Kamal Singh Bhandari,
S/o late Shri Indara Singh Bhandari,
Shyam Nagar, New Basti, Roorkee,
District-Hardwar. .....Petitioner.

Versus

1. Union of India, through Secretary Ministry of Finance, Department of Economics, Affairs (Banking Services) Govt. of India, New Delhi.
2. Regional Manager,
   Regional Office, Astel Hall,
   Central Bank of India, Dehradun.
3. The Branch Manager,
   Central Bank of India, Roorkee,
4. Chief General Manager,
   Central Bank of India, Meerut.
5. Central Bank of India, through its Managing Director,
   Chandermukhi, Nariman point,
   Mumbai-460021. .....Respondents.

Mr. M.S. Chauhan, Advocate for the petitioner.
Learned Standing Counsel for the Central Government.
Mr. B.D. Kandpal, Advocate for the respondent no.2.

Dated: 03.03.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 19.03.2003 and 28.03.2003 passed by the respondent no. 3 (contained as Annexure No.3 to the writ petition). Further prayer has been made for a writ of mandamus commanding the respondents to

provide compassionate appointment to the petitioner sympathetically.

Briefly stated, the father of the petitioner late Shri Indra Singh Bhandari was working on the post of Daftari in the Central Bank of India at Roorkee. He joined Central Bank of India on 10th June, 1967 and continued performing duties up to 16.09.2000. He died on 16.09.2000 in harness. He is survived by his widow and four children.

The petitioner applied on 14.02.2001 for the compassionate appointment under the Scheme for appointment of dependents of deceased employees 1979 Rules requesting the authority that he is the eldest son of the deceased and there is no other source of income and after the death of the bread-earner, the entire family is facing financial hardship and also has come on the verge of starvation.

According to the petitioner, he sent many reminders to the concerned authority in respect of compassionate appointment. Subsequently, the petitioner was permitted to work as daily wager in the Central Bank of India, Roorkee Branch. After rendering one and a half year of service, he was not permitted to work in pursuance of the letter dated 19.03.2003 and the petitioner was informed vide letter dated 28.03.2003 that Central office has shown inability to consider the appointment for some reasons.

After receiving the letter dated 19.03.2003 and 28.03.2003, the petitioner again wrote letter to the authority concerned requesting that no one of the deceased family is in the Govt. Job and the entire family was dependant on his late father.

The petitioner has submitted that his mother is suffering from Hyper Tensive Heart Disease with Chronic Bachache and the whole family suffering from hardship and financial crisis.

After rejection of the application of the petitioner for compassionate appointment, the mother of the petitioner made a representation on 28.03.2003 to the authority concerned stating her grievances and to consider the petitioner for compassionate appointment.

A counter affidavit has been filed by the respondent no. 2, where it has been stated that after the death of the father of the petitioner, the dependants got a sum of Rs. 3.47 lacs as terminal benefits and mother of the petitioner is getting a sum of Rs. 3,884/- as family pension and they are getting an amount of Rs. 5,884/- (approximately) per month, which is more than the amount what the late employee was getting as salary and as such the family of the petitioner is not suffering any harness. In paragraph 9 it has been stated that the application of the petitioner for appointment on compassionate ground was not accepted by the management and intimation thereof was given to him vide letter dated 28.03.2003 and the same was rejected after taking into consideration the financial position of the family of the petitioner.

In the case of General Manager, Kumaon Jal Sansthan, Nainital, Uttaranchal and another Vs. Smt. Laxmi Devi Special Appeal No. 63 of 2005 decided on 21.02.2006, it has been held as under:-

"5. The case of th epetitioner/respondent is that the husband of the petitioner/respondent though was not regularly appointed but he was holding the post of Chaukidar/Beldar for more than 12 years, therefore,e the husband of the petitioner/respondent was a Government Servant within the meaning of Clause (iii) of Rule 2 (a) of the U.P. Recruitment of Dependents of Govt. Servants Dying in Harness Rules, 1974.

6. Since the husband of the petitioner/respondent worked for more than 12 years, thus the impugned judgment passed by learned single judge does not suffer from any infirmity or illegality."

The Apex Court in the case of **State of U.P. and others Vs. Paras Nath A.I.R. 1998 SC Page 2612 in para 5** has held as under:-

"The purpose of providing employment to a dependent of a Government servant dying in harness in preference ot anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. To alleviate the distress of the family, such appointment are permissible on compassionate grounds provided there are Rules providing for such appointment. The purpose is to provide immediate financial assistance to the family of the deceased Government servant."

In the case of **Dhalla Ram Vs. Union of India AIR 1999 SC 564,** the Hon'ble Supreme Court has held that appointment on compassionate ground is not a method of recruitment, but is a facility to provide for immediate rehabilitation to the family in distress for relieving the dependent family members of the deceased employee for destitution.

In view of the above, the orders dated 19.03.2003 and 28.03.2003 are quashed and the respondents are directed to reconsider the matter afresh in view of the observations made above.

Writ petition is allowed. No order as to costs.

(Rajesh Tandon, J.)

03.03.2006
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